

### **REMARKS**

Claims 1 – 9 are pending in the present Application. No claims have been canceled, claims 1, 2, 3, 5, 6, and 9 have been amended, and claim 10 has been added, leaving Claims 1 – 10 for consideration upon entry of the present Amendment. The Specification has been amended to correct certain typographical errors. In accordance with the Examiner's objection, paragraph #2 on page 6 has been replaced.

Claims 1 and 5 have been amended to better define the invention by incorporating one of the limitations from Claim 2. Support for this amendment can be found at least in Claim 2.

Claims 2 and 6 have been amended in to remove the limitation that has been incorporated into Claim 1 and Claim 5 respectively.

Claim 3 has been amended to remove the term "styrene" as suggested by the Examiner. This amendment was not made for reasons of patentability. In addition glycidylmethacrylate was changed to glycidyl methacrylate. This amendment was not made for reasons of patentability either.

Claim 9 has been amended to correct for an inadvertent typographical error. This amendment was not made for reasons of patentability.

No new matter has been introduced by these amendments or new claims. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

### **Claim Objections**

Claim 3, applicant refers to styrene as an acryl monomer. However, this monomer does not contain an acryl group. Also in claim 3, glycidylmethacrylate is spelled incorrectly in line 5. Appropriate correction is required. (Office Action dated November 30, 2005, page 2)

The term styrene has been removed rendering this objection moot. Also glycidylmethacrylate has been changed to glycidyl methacrylate, thereby rendering this objection moot as well.

Claim Rejections Under 35 U.S.C. § 102

Claims 1, 3 – 5, and 7 – 9 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 4,294,751 to Gardner. Applicants respectfully traverse this rejection. (Office Action dated November 30, 2005, page 2)

Claims 1, 3 and 4 stand rejected under 35 U.S.C. § 102(e), as allegedly anticipated by U.S. Patent No. 6,576,717 to Kuo. Applicants respectfully traverse this rejection. (Office Action dated November 30, 2005, page 3)

To anticipate a claim, a reference must disclose each and every element of the claim. *Lewmar Marine v. Varent Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987).

Gardner teaches a curable resin comprising a polyester, a maleic anhydride and an ethylenically unsaturated monomer. (see Abstract) Gardner teaches hydroxyl numbers typically in excess of 65. (see Col. 6, lines 5 – 10) The present application in contrast is directed to polyester intermediate resins having hydroxyl numbers from 1 to 20 mgKOH/g. For this reason at least Gardner cannot anticipate the claimed invention. Applicants respectfully request a withdrawal of the § 102(b) rejection over Gardner.

Kuo teaches a water dispersible acrylic modified polyester resin containing modified sulfonate groups prepared by the addition copolymerization of ethylenically unsaturated vinyl monomers and a polyester. (see Abstract) Kuo teaches that the acrylic modified polyester has a hydroxyl number of 50 to 200. (see Col. 6, line 6) For this reason at least Kuo too cannot anticipate the present invention. Applicants therefore respectfully request a withdrawal of the § 102(b) rejection over Kuo.

Claims 1 – 9 stand rejected under 35 U.S.C. § 102(e), as allegedly anticipated by U.S. Publication No. 2004/0044117 A1 to Liptak et al. (Liptak). (Office Action dated November 30, 2005, page 3) Applicants respectfully traverse this rejection.

Liptak teaches a composition for coating food cans that comprises a polyester, an acrylic copolymer and a crosslinker. (see Abstract) Liptak teaches that the acrylic copolymer is a polymer formed by combining various acrylic monomers. (see page 2, paragraph [0013]) The claimed invention in contrast is directed to an acryl-modified polyester resin composition produced by a polymerization of a polyester resin and an acryl monomer. (see Claim 1 and 5)


Since the present invention is directed to the use of an acryl monomer and not a copolymer, Liptak cannot anticipate the claimed invention. Applicants therefore respectfully request a withdrawal of the § 102(b) rejection over Liptak.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the objection(s) and rejection(s) and allowance of the case are respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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